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fessor is ingenious and, assuming with him that the constitution was national in origin and essence, he is triumphant. But Black and Buchanan started from a wholly different assumption. As to the president's actual conduct, it is not difficult to prove that he was lacking in resolution. But the author makes no allusion to an important element of weakness in his position. A combination of Secessionists and Republicans in Congress could have impeached him. That a successful use of force against the South would have precipitated a movement in this direction, can scarcely be doubted. The general attitude of the Republicans certainly gave no assurance that they would not join such an enterprise, and in view of the prevailing incredulity as to the South's earnestness in withdrawing, Northern public sentiment could not be depended upon to sustain the president. There surely was something in these considerations to justify a naturally timid and peace-loving executive in staving off decisive action.

It is an unpleasant duty of the reviewer to call attention now, as was done a dozen years ago, to the unworthy dress in which the American translation of this great work appears. Paper and margins in this volume, as in its predecessors, are all that could be desired; typography and proof-reading are only less wretched than hitherto. The "scarcely vested threats" on page 27 compares very well with the "semi-lateral contract" of a former volume.

WM. A. DUNNING.

La Femme au point de vue du Droit Public. Étude d'histoire et de législation comparée. Par M. OSTROGORSKI. Ouvrage couronné par la Faculté de Droit de Paris. Paris, Arthur Rousseau, 1892.—8vo., 198 pp.

In M. Ostrogorski's discussion of the position of women in local self-government, published in this *QUARTERLY* a little more than a year ago (volume vi, page 677), a fuller survey of women's rights at public law was announced, and the present volume redeems the promise. The rights of women to the throne and to the regency under monarchic systems of government; their admission to political suffrage and their capacity to hold political office; the part given them in local self-government and in the purely administrative services of the state,—all these topics are examined from the historical and the comparative points of view. In the last two chapters the author considers, under the head of "individual public

rights," the legal capacity of women to petition the legislature, to form or take part in associations, to conduct newspapers, to study and to teach, and to enter the liberal professions—all matters of public law in European continental legislations, at least—and, under the caption "quasi-public rights attached to civil capacity," the right of women to act as guardians and as formal or "solemn" witnesses to documents of a public or quasi-public character.

The historical portion of M. Ostrogorski's work, though admirably done, is merely introductory to the examination and comparison of existing laws. His book is primarily and principally a study in comparative legislation, and it is a model of its kind. Not only are the laws of all the civilized states of the modern world considered, but they are elucidated by citations from debates, parliamentary reports and judicial decisions. Nor has the author confined himself to a simple collection of material. He has really compared the laws which he brings together. He has indicated how far the tendencies of modern legislations are in harmony and in what points the laws of the different states diverge. He has done even more than this: he has endeavored to formulate the ultimate principles upon which the existing harmony is based and to explain the divergencies. His work becomes, therefore, a contribution to inductive social philosophy.

It is for this last reason particularly that I term M. Ostrogorski's work a model of its kind. Just as the comparative study of early institutions and customs on the one hand, and that of legal history on the other, afford the clearest insight into the primitive consciousness of our race and the changing phases of its evolution, so the comparison of modern legislations gives us the most authentic evidence of the existing consciousness of civilized mankind; and the interpretation of that consciousness is one of the most important functions of modern sociology.

What then is the common sense of the world regarding the political powers so often claimed for women on the basis of natural right? With the chief conclusions of M. Ostrogorski the readers of the *QUARTERLY* are already familiar. In spite of the marked tendency of modern law to emancipate women from all purely civil disabilities, he finds no serious inclination to clothe her with political power. Wherever women have occupied thrones or exercised the powers of regency, their right has sprung from a confusion of the principles of public and private law, from the application to a political office of the rules of feudal law, *i.e.* of property law. In proportion as this confusion has disappeared, the tendency has been to

restrict the right of women to exercise monarchic power. What remains is a survival, explicable largely by the decrease of royal authority. Wherever, in earlier times, women voted for representatives in diets, estates-general or parliaments, it was because the right to vote attached to property. Their participation in communal affairs rested on the same ground. It was not the human being that voted and was represented, but the land. In proportion as suffrage has become personal—in proportion, that is, as the modern democratic idea has been realized—woman has lost her voice in public affairs. She has no direct political vote anywhere in the world except in Wyoming. She has an indirect political vote in the Isle of Man, in Austria and in Sweden, but only on the basis of property. Similarly the local suffrage is to-day granted to women only when the basis of representation is property or income. In England and many of her colonies, in the Germanic portions of the continent of Europe and in Russia, local suffrage rests upon this basis, and women have voice in the management of local affairs—in Germany, however, only in the rural communes. In the Latin countries and in the United States, where local suffrage has been assimilated to the general suffrage, women have almost uniformly failed to secure even the local ballot. The only important exception (besides Wyoming) is Kansas.

Women have been more successful, on the other hand, in obtaining a voice in the poor-law administration and in school elections. This is in part due, as M. Ostrogorski indicates, to the limitation of the suffrage in these cases to taxpayers. It is also due largely, in the United States at least, to the feeling that poor relief and school administration are non-political matters.

M. Ostrogorski's book is an illustration of the good results that can be obtained from prize-funds wisely administered. In memory of the Italian statesman, Count Rossi, at one period of his career professor of constitutional law in Paris, his widow bequeathed to the Paris Law Faculty a generous endowment, the income to be devoted to annual prizes, open to all competitors. The law faculty pursues the policy of assigning subjects for investigation. The subject in constitutional law for 1891 was that on which M. Ostrogorski has written, and his book received the first award of 1000 francs. It was declared to be "*un livre distingué, profondément réfléchi, d'une lecture attachante*"¹—a judgment from which transatlantic readers will find no cause to dissent.

M. S.

¹ Faculté de Droit de Paris. Distribution des Prix: Concours de 1891. Rapport par M. Le Poittevin.